# AN EXCISE TEST.

The Barroom-Hotel Question to Go Before the Grand Jury.

JUDGE KILBRETH'S DECISION.

Commissioners Morrisson and Merkle Charged with Misdemeanor.

Early last month, on the complaint of an agent of the Society for the Prevention of Crime, Excise Commissioners Morrison and Merkle were arraigned before Judge Kilbreth at the Tombs Police Court, charged with having unlawfully licensed the saloon of Byrnes & White, on West Houston street. Several examinations were held and a couple of volumes of testimony taken. Yesterday Judge Kilbreth, who has been sitting at sex Market Court since the 1st of January, gave his decision as follows:-

Sear Market Court since the 1st of January, gave his decision as follows:—

JUDOK KILBINETE'S DECISION.

The accused Commissioners of Excise of this city are charged with misdemeanor for having, on the 16th day of April, 1878, illegally granted Edward F. Byrne and Edward White a heense to sell strong and spirituous liquors in quantities less than five gallons at a time, to be drunk on the premises, No. 19 West Houston street. It was conceded on the examination, or established by competent testimony, that Byrne & White have for nearly three years past occupied the first floor of No. 19 West Houston street as a barroom; that, in September, 1877, they niced with the Board of Excise an application to sell liquors as hotel keepers, which, having already on two occasions—the latter one as late as February 29, 1878—been reported upon untavorably by two inspectors of the Board, was, on April 16, 1878, for the Board, was, on April 16, 1878, for the Board, was, on April 16, 1878, for the Board of the same day; that at the time the license was granted nineteen similar Heenses to keepers of hotels within two or three blocks of the premises and 928 similar licenses to keepers of hotels in the city had been issued and were still in foregath that the Commissioners had no information, and misde no effort to obtain any, that a hotel was required for the actual accommodation of travellers at the place; that the applicants occupied or controlled only the first floor used as a barroom, and the rear part of the second floor recently acquired, the basement being a restaurant kept by one Cuzera, also licensed to sell ale and beer, and the remainder of the premises being used as workshops.

That apart from the barroom there were no accommodations for travellers at the place; that the applicants or of the commissioners and acooking above with one or two pots for cooking purposes. All originally contained in one room, which was afterward sub-divided upon the suggestion of one of the Commissioners, and each bed placed in a separate room,

ensued.

AN UNHEFFED PROTEST.

Testimony was also given by the complainant, an agent of the Society for the Preventic n of Crime, and so known to the Commissioners, that he protested to them against granting the license and filed this written protest with their chief clerk.

This is denied by both the Commissioners, who further say that they have been unable, by searching, to find such protest on the files, though the chief clerk, who was a witness, did not deny the fact of such filing.

clerk, who was a witness, did not deny the last of such filing.

The Commissioners presented a copy of a resolution which they forwarded to the Board of Police, asking a report upon the character of all places in the city where strong liquor or ale and beer is usually sold, and which was returned to them by the Board of Police with the suggestion that the Board of Excise had inspectors of their own to furnish such report. The purpose of its introduction is not clear, since the resolution

constrained to acquiesce in the propriety of the protest.

A SMALL NUMBER OF MOTELS.

Commissioner Merkle states that he regarded 998 hotels as a very small number for the city of New York, and for that reason did not make any inquiries as to the necessity for a hotel at the place. Commissioner Morrison states that upon the occasion of a personal inspection which he made of the premises a very hasty and superficial one—he told Byrne that he snould place his hotel in a better condition, but did not inquire whether his suggestion had been carried out; that Byrne afterward came to the office and said he had compiled with the law and was ready for inspection, and that he (Morrison) thereupon sent another inspector, who reported favorably.

It is clear beyond all reasonable doubt that the applicants did not propose to keep a hotel in the legal intendment of the term. The place kept by them is not the kind of hotel contemplated by the statute. To call it so would be a perversion of terms, It is a pretence and a sham of which some suspicion was evidently entertained by at least one of the Commissioners. Assuredly such license should not have been granted under the law as it now exists, and the responsibility for the manifest violation or evasion of the law must rest entirely with the Commissioners.

I cannot regard their action in any other light than the result of a wiful and intentional disregard of the provisions of the stante or of gross negligence. The evidence forces me to the conclusion that there is probable cause to believe the accused guilty of the offence charged. I therefore direct that they each enter into a recognizance with surety in the sum of \$1,000 to answer to any indictment of the Grand Jury.

Ball was furnished by Michael Brestin, of No. 114

Allows to answer to any indictment of the Sum of Jury.

Ball was furnished by Michael Brestin, of No. 114
East Seventeenth street, for both Commissioners, after which they immediately left the court room.

What COMMOSSIONER MORRISOS SAYS.

In conversation with a Herrald reporter Mr.

Morrison, who is President of the Board of Ereise, stated that the decision of Judge Kilbreth to-day was a temporary victory for the fanatical element of the community; that the Society for the Prevention of Crime desire to provent—no matter what their professions may be—all licensed liquor selling in the city of New York. They selected Judge Kilbreth as a man imbued with their ideas to go before to procure a decision taverable to their views.

principal and interest of the present receiver's certificates to January 1, 1879. This stock is to be entitled to a dividend of six per cent after the new first mortgage bonds, principal and interest, have been paid off, and when a working capital of \$50,000 has been accumulated. The first mortgage bondholders are to receive for their bonds, principal and interest, to January 1, 1879, \$13,000,600 common stock. The holders of second mortgage, equipment and consolidation bonds and floating debt can have common stock in the successor company for the par value of their securities upon the payment of a cash assessment of twenty per cent. The money received in assessments from the junior security holders and stockholders is to be applied to the extinguishment of the new first mortgage of \$200,000. Until such time as a dividend has been paid on the common stock the preferred stockholders will have eight and the common stockholders for representatives in the Board of Directors, and after that event both classes of stockholders are to be equally represented in the Board. According to the modified plan the present first mortgage bondholders have been allowed a representation of three members of the Purchasing Committee, the holders of receiver's certificates to have nine members of the

### THE RIFLE.

At the Creedmoor Junior Range yesterday the sec-ond competition for the Ballard midrange rife was shot by two teams of five from the Empire Club and one team of five from the Zettler Club. The conditions of the match were:-Number of shots, 10; position, standing; distance, 100 yards; rifle, any 22 calibre, 3 pound pull. Entrance fee, \$5 each team. One quarter of entrance money given to second team at each competition. Prize to be won three times before becoming the property of winners. Open to teams of five from any rifle club or association. More than one team can enter from any club, but one man can shoot on but one team.

Following were the scores:	
ZETTLER CLUB.	
P. Fenning 5 5 4 5 5 4 5 4 4 5	46
William Klein 5 4 4 5 4 4 5 5 4 5	45
D. Miller 544454544	44
C. J. Zettler 5 5 5 4 4 4 5 4 4 4	44
H. Oehl 5 5 5 4 5 4 3 4 4 4	43
Total	222
EMPISE CLUB.	
J. W. Todd 5 5 4 5 8 4 5 5 5 5	46
W. M. Farrow 5 4 5 4 5 5 5 4 4 5	46
Dr. Dudley 4 5 4 5 4 5 4 5 5	45
F. H. Holton 5 5 5 4 5 3 4 4 4 4	43
Dr. Steele 4 5 5 4 4 4 3 3 4 5	41
Total	
	221
H. Fisher 4 3 5 4 4 5 4 5 5 4	43
M. M. Maltby 4 5 5 3 4 5 5 4 3 4	42
H. W. Gourley 4 4 3 5 4 4 5 4 5 4	42
D. F. Davids 4 4 5 4 5 4 4 3 4 4	41
J. C. Clark 5 4 3 4 4 3 4 4 5	40
Total	208
This makes the second states for the Total or (1)	

This makes the second victory for the Zettler Club, they having won the previous match by the same score, 222.

#### CAPTAIN BOGARDUS.

On Wednesday and Thursday next Captain Bogardus will endeavor to break 6,000 glass balls out of 6,200, and he will also shoot a match with Abe Kleinman, of Chicago, allowing the latter 200 broken balls in 1,000. The Captain will also attempt to break 6,000 balls without a miss.

### LONG BRANCH GUN CLUB.

The glass ball shooting match of the Long Branch Gun Club, which was to come off at Marion, N. J., yesterday, did not take place. Only one member put in an appearance, the others being absent either from the delay in crossing the ferries or from the intense cold. Several members of the Jersey City Gun Club, by whom the grounds are owned, were in attendance and had made suitable preparations, but the grounds were abandoned at two o'clock.

### HORSE NOTES.

The stewards of the different trotting associations of Cincinnati, Columbus, Louisville, Toledo, East Saginaw and Jackson, Mich., will meet in Toledo on the 8th inst., to arrange for a summer trotting cir-cuit, to include the places named. Captain George N. Stone will represent Cincinnsti; Walter Morrison. Columbus; Sam West, Toledo; S. S. Vaughn, Jackson, and Colonel R. West, Louisville. The latter

pase has now a regular trotting association, of which Colonel West is president and Major McDowell is secretary.

Racing meetings for the spring and summer are taking definite shape. Most of the clubs have fixed upon their dates. Mobile and New Orleans have not yet made public the time they will occupy, but Savannah includes January 21 to 25; Charleston, February 5 to 8; Nashville, April 20 to May 3; Lexington, May 11 to 16; Louisville, May 18 to 24; Cincinnat, June 3 to 7; St. Louis, June 10 to 14, and Chicago, June 21 to 27. Columbus has not fixed a day so far, but she will find a place to come to the front with a good meeting. The money offered and to be offered at these places which have fixed their dates, as purses and additions to the stakes, will not fall short of \$60,000, and the amounts to be given by Mobile, New Orleans and Columbus will swell this sum to about \$70,000. The value of the stakes, of course, cannot be estimated, as many of them are yet unfilled, but they will probably more than double their value in any former year.

Bauer covered Muldoon's \$100 at the Copper office yesterday, and his friends, who accompanied him on a tour among the public houses down town, offered 2 to 1 on their man and bet the few takers to a stand-2 to 1 on their man and bet the few takers to a standstill. The meeting to sign articles of agreement, &c.,
will take place at the Clipper office on Monday morning, at eleven o'clock. Both Bauer and Muldoon are
in superb condition, and, although the general opinion is that Bauer will win, those
who know how abstemiously Muldoon has
always lived and the extreme care he has
always given to his physical condition anticipate a
most stubborn contest. Since the Police Athletic
Club has been disbanded Muldoon has wrestled regularly every other day with one or the other of the
French wrestlers here, and he is quietly taked of as
the coming man. His immense muscuiar power and
cool head, with unstinted practice, must certainly
make him a formidable opponent.

# MME. ANDERSON.

Mme. Anderson is still walking at Mozart Garden, Brooklyn, and making very good time. Yesterday 18m, 11s.: 452d, 17m, 131/s.: 453d, 18m, 351/s., and 454th, 18m. 491/s. Her fastest quarter-3m. 221/s .was made during the afternoon, when she fairly walked away from an ambitious Brocklyn lady, who would persist in accompanying the pedestrienne on her rounds. At twelve o'cleek last might Mmc. An-derson had completed 1,840 quarter miles.

# THE BUILDING DEPARTMENT.

REPORT OF SUPERINTENA ENT DUDLEY TO MAYOR COOPER-INTERESTING STATISTICAL STATE-MENT-NEARLY THREE HUNDRED MILLIONS OF DOLLARS EXPENDED IN ERECTING NEW BUILDINGS SINCE 1868.

Mr. Henry J. Dudley, the Superintendent of Buildings, has sent to Mayor Cooper a report of the operations of the department during the year ending December 31, 1878. Mr. Dudley was the deputy superintendent during the term of Mr. Walter W. Adams, who resigned his posi-tion a few weeks since. The report of the Bureau shows that during the year 753 plans for the erection of buildings were submitted, the estimated cost of which was \$15,219,680. Eleven hundred and twenty-one plans for alterations to buildings were presented to the department, to cost \$2,621,046. The

FITZ JOHN PORTER'S CASE.

CONTINUATION OF THE ARGUMENT FOR THE PE TITIONER-GOING OVER THE WHOLE GROUND. WEST POINT, Jan. 4, 1879.

Mr. Maltby, of General Porter's counsel, continued his address before the Board of Inquiry to-day, his argument being very full and exhaustive and illustrated at every point by quotations from the evi dence or from documents on file. So voluminous has been the testimony (nearly one hundred witnesses by the government representative and forty or more by the petitioner) that no one address can cover all the points to be illustrated, and Mr. Maitby has been forced to omit a critical analysis in most incapitulation of evidence on the question at issue. He first considered the question whether General Porter was aware of the presence of Longstreet in his front on the 29th of August, 1862. This knowledge, the counsel claimed, was shown to be in possession of Porter and his sub-ordinates by the testimony of his staff officers and division and brigade commanders, and the fact that a number of the enemy's scouts were captured and brought before General Porter and announced themselves to be Longstreet's men. As to the question of the strength of Longstreet's command, Mr. Maltby dwelt at great length to show by the evidence, both of Union and Confederate officers, that Porter, with his 10,000 men, held in cheek a force of the enemy in his front numbering 25,000, and prevented them going to the aid of Jackson to overwhelm Pope On this point, which is one of the principal issues be asked for than the evidence of the Confederate officers engaged in the affair and their official

the counsel claimed that no better testimony could be asked for than the evidence of the Confederate officers engaged in the affair and their official reports made at or about the time. General Longstreet himself, General Robertson, Colonel Marshall, of Robert E. Lee's staff, and the writer of most of that General's reports, and other competent witnesses were quoted in support of this proposition. "The preponderance of the testimency of the Confederate officers," said Mr. Malthy, "is strongly on the side of the petitioner, and if they are to be believed General Longstreet's line was formed at eleven o'clock on the morning of August 29." The "joint order" to McDowell and Porter, the counsel claimed, left the responsibility of any attack upon the enemy with the former officer, who was the superior, but as in their opinion it was not deemed best to give battle that day, and McDowell rode off after a brief interview, Porter was bound to exercise his best discretion, which he did, and which prompted him, when he found that McDowell had withdrawn King's division from his command, to lay quietly and watch the enemy, satisfied to hold so large a force in check and not to risk the lives of his men and the cause in which they were engaged by an attack that was certain to fail.

The charge that General Porter made a retreat on the 29th of August was next considered; "I am tempted," said Mr. Maltby, "to speak of this retreat of which General Porter has been found guilty in the manner in which the famous chapter on the snakes of Ireland was composed, to wit, There was no retreat, and thus end the whole subject." The testimony of most of the general officers in the command was cited to prove that there was "no retreat or movemen that day in the nature of a retreat" by General Porter's corps, and was strongly put. The specification of the second charge, wherein Porter was accused of "misconduct in the face of the enemy" was the counsel's next subject; and the additional clause that although being "within sound of the guns and

Major General Pontes.

A QUESTION OF TIME AND ROUTE.

The testimony of Captain Pope, who carried the order, and the orderly, Durify, who accompanied him, was thoroughly reviewed, and the impossibility of the correctness of their story insisted upon. General Ruggles, who wrote the order at the dictation of General Pope, testified that his habit was to look at his watch and mark the time on an order when he began to write it. He judged it took twenty minutes to write it, copy it and prepare it for delivery. The route taken by Captain Pope and the impossibility of a rapid movement, as testified to by that officer, were particularly mentioned by the counsel, and the evidence of the members of Porter's staff and others who were present when Captain Pope arrived with it, made it certain that it was not till after half-past six P. M. that the order reached General Porter. The evidence of Colonel Mosle and Lieutenani Jones, to whom Captain Pope said only a few years ago that it was "near dark when he reached iteneral Porter" was effectively quoted, and the weight of the evidence of General Sykes, who was with General Porter, the officers of the staff who testified to the same effect and are all gentlemen of character, and other equally strong witnesses was earnestly stated. The orders of theeral Porter to his subordinate generals to carry out the directions retified to the same effect and are all gentlemen of character, and other equally strong witnesses was earnestly stated. The orders of deneral Porter to his subordinate generals to carry out the directions received in the "half-past four P. M. order" were stated, and the testimony that every exertion was made and all possible preparations to attack was quoted; and the fact, as Mr. Maitby declared, that darkness prevented a compliance with it ought to be now admitted without dispute. This part of the argument was exceedingly well prepared and was the most interesting and effective portion of the address. Mr. Maitby, with the zeal of the advocate, concluded his long argument on this point by saying:—"Having thus shown that General Porter was entirely innocent of the charges upon which he was convicted, I shall turn to the ciaim advanced by us, that his remaining stationary accomplished without loss of blood what could not have been accomplished had he attacked and been defeated, namely, he kept Longstreet's force from attacking General Pope's main army in flank, on the 20th of August, 1802, and thus delayed its defeat by one day.

This point, which is embraced in the previous part of his argument, he further elaborated with many citations of the testimony, and passed to the discussion of the question of General Porter's animus. Here he made a powerful attack on the testimony of some of the witnesses brought forward by the Judge Advocate, contrasting the evidence of the witness Bowers, whom he called a "professional spy," who was arrested frequently during the war occause of his suspicious character, which "suspicious character buttal. The evidence of Bowers was as follows:—

Answer. I had started out, some hour, or perhaps mere, before that to look for a place to water our hurses.

clings to him yet," with the evidence or rought in rebuttal. The evidence of Bowers was as follows:—

Answer, I had started out, some hour, or perhaps more,
before that to look for a place to water our horses.

Q. Of your own voiltion? A. By direction of our commander; in looking around I get inside of General Porter's
lines and came up to an officer, i think, perhaps of the runk
of Heutenam, coloniel, as near now as I can recollect; he
asked me where I was going; I told him if had no insignia
of rank apon me that we had been having a pretty hard
time of it, and no chance to change clothing since the 18th of
August, 1862; he appeared to disbetieve my statement; he
took me with him—I think, perhaps, there was an outsted
man came up about that time—they took me to General
Porter's headquarters; I was directed to stay there; there
was a guard around beadquarters, a slight guard, and white
remaining there in that capacity, under arrest, as I considered myself, I saw General Porter.

Q. Did you hear any conversation on the part of General
Porter's A, I haard a gentleman that they called General
Porter's ay to the officers who I took to be of his staff, something like this:— General Pope w coming through this
command shortly, and I don't ash any hours or courtseles
shown to him, and I wast my troops to be informed of my
desire." Thereupon these officers, who I took to be General
Porter's a staff officers, left his headquarters cent and shortly,
afterward came back, sene twenty inhures or half hour
after that time General Pope was ethrough, and no attention was paid to him.

A womentagewere containly simple and

A WORTHLESS WITNESS.

Mr. Maltby's comments were certainly simple and direct:

"This man's evidence was a wilful falsehood. He

stated that the decision of value Killipret to-day was a temporary victory for the familical element of the correct control of the correct correct

and an explanation of the despatches of Porter to Burnside, with a brief reference to Governor Newell's testimony that President Lincoln told him a few days before his death that he intended to order an inquiry into the case of General Porter, as he believed injustice had been done. Mr. Maitby's peroration was eloquent, and his entire address received the closest atjention both from the members of the Board and the spectators. Mr. Bullitt's argument will follow next week, and after that the Judge Advocate and Mr. Choate, who will have the final word.

### THE CHARTER OAK CONSPIRACY.

THE ARGUMENTS COMPLETED-AN ADDRESS IN BEHALF OF THE DEFENDANTS AND A SPECIAL REQUEST TO THE JURY-THE CHARGE POST-PONED UNTIL TUESDAY.

HARTFORD, Conn., Jan. 4, 1879. The closing argument for the defence was com pleted by Mr. Hyde this morning, covering in its entirety the operations of the conspirators from the time they came into the company down to the period of the Furber-Jewell settlement. Discussing the original Furber contract, under which \$500,000 of assets were contributed, Mr. Hyde claimed that Furber received but \$121,000 under the pany, while the profits during that period aggregated a round million. Commissioner Stedman was right in saying that the Charter Oak could pay that contract and save \$400,000. It was an honest bargain, and it was only fair that Furber should have some compensation (to be decided by arbitration) for the risk assumed; that the company might possibly be forced into bankruptcy and he would lose heavily. HOW DOUBTFUL ASSETS WERE MANIPULATED.

Various bad assets of the company were considered

eristim, and it was pointed out that every one was an investment before the accused had any connection with it. The Allen, Stevens & Co. (New York) "blanket mortgage" was an affair of the former management. Suit had been brought to recover on this, and the other interested creditors of Allen, Stevens & Co., Mr. Hyde asserted, had been instru-mental in organizing the attack on the Charter Oak to cripple the company and prevent it from fighting for what was claimed—everything of the estate covered by the mortgage. Furber, upon going into something on this mortgage, and the attack promptly began. The Valley Railroad \$1,250,000 secured mortgage bonds were invested in by the company un-der the old management, and all that Furber had to do with them was to convert them into New York real estate paying six per cent. The Higganum mort-gage was handled in the same way, and as to the West Virginia property Furber did nothing with it excepting to have a new mortgage executed to cover important properties, which had not been properly covered in the original mortgage. Every effort of the accused, in short, was to better the condition of the company and, to put the worst construction on their motives, only for the purpose of insuring payments under their contracts by making the company sol-

motives, only for the purpose of insuring payments under their contracts by making the company solvent again.

The New York downtown purchase by Furber in behalf of the company was reviewed at length, and that it was a good bargain had been testified to by the present managers of the Charter Oak, and another point is that for a year after the sale the seller leased the property at the rate of six per cent on the full amount that was paid for it. Continuing, Mr. Hyde remarked that an impression existed that the accused were in some way responsible for the forty per cent scaling of the policies that was made by the Jewell management. This is unfair; the fact is that the scaling was necessitated by the reduction of the receipts—\$3,000,000 in two years—resulting from the attacks upon the institution and the apprehensions of the policy holders due thereto. And these attacks, Mr. Hyde asserted, were continued by the interests that attacked Furber, and they are continued to this day with the sole object of forcing the company into the hands of a receiver and ruining it. THE JEWELL SETTLEMENT.

Regarding the settlement made by Jewell with Furber, Mr. Hyde said that while this had been excluded from the evidence, it must be conclusive to every intelligent man that there could be nothing wrong in it when it was approved by such men as Governor Jewell, Senator Eaton. Colonel Bissell and other gentlement, constituting the new Board of Directors. And it should be remembered that this was a settlement made pursuant to the terms of the original Furber contract, which the State had claimed was fraudulent.

With this Mr. Hyde closed his remarks on the evidence.

made pursuant to the terms of the original Furber contract, which the State had claimed was fraudulent.

With this Mr. Hyde closed his remarks on the evidence and spoke of some general features of the case. He said:—"It has been represented by the State that the defendants have endeavored by every legal means to prevent a trial and to escape justice. This is not borne out by the facts. Only a year ago yesterday the Grand Jury found a bill against them, and the fact was announced to the world with a flourish of trumpets. The wires flashed the news to Furber in New York and Wiggin in Boston, and they hurried to Hartford as fast as steam could bring them, without waiting to be legally summoned. Reaching here they were compelled to await until the following week the form of being arrested and giving bonds. Since then they have stood ready at all times to answer the charges against them. The prosecution complains that they insisted upon all their rights in this trial, but it should be remembered that for a full year they had been hounded by the press and the public; that they went into this trial under the disadvantage of a strong tide of public opinion against them; that their personal liberty and their reputations allike were at stake, and that, consequently, in justice to themselves, they were bound to make the strongest possible defence. The State Attorney, in his closing argument, did a most unusual thing; he urged that if a single juror had in his mind a shadow of doubt as to the Innocence of the accused he should

upon known facts, but upon rumor and misrepresentation.

A QUESTION OF LAW.

"The case should never have been tried in this court at all. Early in this trial the Judge admitted that it was not clear to him that the offences alleged constituted anything more than simple misdemeanors, and if only these, the statute of limitations would have run against many of the allegations. We asked that we might be saved the expense of the trial by taking this question to the Supreme Court, but the Judge decided to go on with the case proforma and see what evidence could be produced. And yet, after all the wrong the defence has been subjected to, the State Attorney comes in at the close of this trial and asks that, if the jury has any doubt as to the innocence of the delendants, that the State receive the benefit of such doubts. This is reversing the old common law principle, which accords to the accused such benefit, and declares that every man shall be held to be innocent until it is proven beyond a reasonable doubt that he is guilty. Give us justice under the law and the evidence and you cannot fail to give us a speedy acquittal."

The Court adjournes to Tuesday next, when Judge Hovey will deliver his charge.

# BUSINESS TROUBLES.

Robert N. Hayward made an assignment yesterday to Charles Stoppelkam, giving a preference to his wife. Frederick Graf made an assignment yesterday The bond of the assignee in the matter of the a

signment of Olyphant & Co., the China commission merchants, was yesterday fixed by Judge Van Hoesen at \$100,000.

The following schedules in assignment cases were yesterday filed in the Court of Common Pless:—William Roth to Philip Steidel, the liabilities amounting to \$13,574 61; nominal assets to \$2,505 61 and real assets to \$2,505 61 and real assets to \$2,505 61.

Wintringham: the liabilities amount to \$25,015 of and nominal assets to \$24,000. Ash & Seidendorf to Henry S. Eisler: the liabilities are stated at \$13,186 nominal assets at \$9,147 85 and real assets at \$5,23885

# FAILURE OF ELIAS BROTHERS.

William M. Elias and Elias H. Elias, well known as the Elias Brothers, made an assignment yesterday to Hamilton Fish Burtnett. A few years ago Ellas II. Elias testified in court that he owned property, government bonds, diamonds and erty, government bonds, diamonds and cash to the amount of \$300,000. Their assignment was the result, it is alleged, of inability to get an extension from their creditors and the commencement of a suit by one of the creditors. The liabilities amount to about \$40,000, and the assets consist of watches, fancy goods and various odds and ends, Elias has five splendid horses, estimated worth \$3,000, and yesterday wore a profusion of diamonds. Daniel A. Loring is the only preferred creditor for \$9,000. Among the other creditors are John F. Hopkins et Co., F. 6. Whitney & Co., Stephen Richardson & Co., A. Busbee & Co., William Richardson and J. M. Young & Co.

SANE OR DEMENTED?

The proceedings to determine the sanity of Mrs. Henrietta Greuwe, of No. 211 Park avenue, who charges her kusband, Emil Greuwe, an architect in this city, and several others with attempting to in carcerate her in an asylum, were continued at the Hudson county Court House, Jersey City, yesteriay, before the commission appointed by the Chanceller.

George Clarke, a Hoboken contractor, testified that he had caused the arrest of Mrs. Greuwe in 1875 for annoying him, she baving frequently attracted a crowd around his door by her actions and her state.

Interment in Calvary Cemetery, Monday, January and Conday, January and Calvary, Sanity of parish Drum, near Athlone, Ireland.

ment that her husband was inside: Mr. Greuwe, wit-ness said, had nover been in his house at all.

Dr. Edward Vicarino, a graduate of the College of Geneva, and for eighteen months assistant physician in a Geneva asylum for the insane, stated that he had pronounced Mrs. Greuwe of unsound mind because of her strange conduct; she frequently received let-ters mailed to him and gave them to the children, who tore them up.

of her strange conduct; she frequently received letters mailed to him and gave them to the children, who tore them up.

Dr. H. S. Patters, of Twenty-eighth street, this city, testified that twelve years ago he was Mr. Grouwe's family physician; he first noticed the symptoms of a disordered brain in Mrs. Grouwe in 1871, after the death of one of her children at Cold Springs, N. Y.; she afterward accused witness of conspiring with her husband to get her out of the country and also of giving her medicine to poison her; when asked by him a year later why she wanted his attendance if she thought he had been trying to poison her she denied ever having said anything of the kind to him; in the opinion of witness the loss of her child had partly deprived her of her reason.

### COUNTY CLERK GUMBLETON.

PERFECTING THE MANDAMUS ORDER OF JUDGE DAVIS-APPLICATION TO JUDGE DONOHUE FOR

The legal game of battledoor and shuttlecock in the matter of the examination of the books and records in the office of County Clerk Gumbleton is not yet, it seems, terminated. A new phase in the litigation presented itself yesterday, evincing an ardent determination on the part of Mr. Gumbleton and his legal advisers to fight it out on the line they have chosen if it takes all winter.

SETTLING JUDGE DAVIS' ORDER,
First in the order of proceedings yesterday was the
assembling in Judge Davis' private goom of the Committee of the Bar Association and Mr. Gumbleton's counsel for the purpose of settling the order of mandamus directing Mr. Gumbleton to allow the commit-

mittee of the Bar Association and Mr. Gumbleton's counsel for the purpose of settling the order of mandamus directing Mr. Gumbleton to allow the committee to examine his books. This took some time. After the usual phrascology reciting the facts of the case and the hearing in Court the rollowing was the order as finally settled:—

"Ordered that a peremptory writ of mandamus issue out of and under the seal of this Court, directed to the above named respondent, the Clerk of the County of New York, enjohing and commanding him forthwith, upon service thereof, to produce and exhibit to the above named relators, or any or either of them, and allow them, or any or either of them, to inspect and examine at all times during office hours of each and every day when they may demand such inspection, all books kept by the respondent, pursuant to the Laws of 184°, chapter 432°, in such case made and provided, containing an account of all or any fees, perquisites and emoluments actually received by him for any services done by him or by his assistants in his or their official capacity, containing an account of all or any fees, perquisites and emoluments which said Clerk has been entitled to demand or receive from any person for any services rendered by him in his official capacity pursuant to law. And it is further ordered that the respondent pay to the relators \$10, the cost of this motion. Enter, N. Davis."

This order was field in the County Clerk's Office—the first ever received against that official.

APPLICATION FOR A STAY.

A copy of the above was forthwith served on Mr. Gumbieton, and the Bar Committee expected free access to his records. In this, however, they were disappointed, an order being produced by Juage Donohue, returnable at half-past three P. M. requiring the Bar Committee to show cause why an order should not be granted staying all proceedings under the writ of mandamus pending an appeal from the mandamus. At the appointed hour the parties interessed came before Judge Donohue. No very long arguments were ind

Court.

After some further argument Judge Donohue took
the papers, reserving his decision.

### MARRIAGES AND DEATHS.

## ENGAGED.

PERTE-NEWMAN, MAX PERTE to Miss AMELIA\* NEWMAN, both of this city. No cards. WAGNER-WEBER, Miss EMMA L., niece of Mrs. M. Weber, of New York, to R. B. Wagner, of New Haven,

MARKIEU.

AITKEN-PULIS.—On Wednesday, December 25, 1878, at the residence of the oride's parenta, Inwood, N.Y., by the Rev. Mr. Van Slyck, Charles H. AITKEN to Manistra Pulis.

Converse-Macdonough.—On Thursday, January 2, at the residence of the bride's parents, Inwood-on-Indason, by the Rev. Carlos Martyn, Edmund C. Converse to Jessie Macdonough, daughter of F. G. Green, Esq.

Green, Esq.
DRINKER—LOUDEN.—On Thursday, December 19, 1878, by the Rev. William Searles, Charles Drinker 1878, by the Rev. William Searles, Charles Drinkers to Miss Jennie Louden, New York city.

Esolest—Trainon.—On Sunday, December 29, 1878, at the Church of the Holy Cross, New York, by the Rev. Charles McCready, H. H. Endlerst to Kathe F. Traison, daughter of the late Thomas Trainor, Esq. Farrice—Eddonos,—At the Church of the Atonement, corner of Madison av. and 28th st., on Saturday, January 4, 1879, by the Rev. C. C. Tiffany, assisted by the Rev. Constantine Stander, Fillace Famici, of Venice, Italy, and Olivia Sparrick, aughter of the late William Edmonds, Esq., of this city.

Keyrs.—Traynor.—At Newark, N. J., on Tuesday, the Bist uit, by the Rev. L. Gambosville, H. M. Keyls, M. D., United States Marine Hospital service, to Katte, daughter of James Traynor, Esq., of Newark, N. J.

Love.—Bunker.—On December 24, 1878, at the residence of the bride's parents, by the Rev. Archibald McCoulough, Richard T. Love, of New York, to Annie C. Bunker, of Brooklyn, E. D. No cards.

MOTT.—Mourell.—At Bangor, Me., on December 3, 1878, Alexander H. Mort, of this city, to Miss Minduly M. Morrell, of the former place.

Shanley—Bouker, y.—On latinst, by Rev. Thomas F. Lyden, Jone J. Sranker, On December 30. at the Church of St. Vincent Ferrer, by the Rev. M. D. Lilly, O. P., Francis A. Tagliabur to Mark E. Nowlan, both of this city.

DIED.

Barmone.—At Woodside, L. L., Ward H. Barmone, in the dist year of his are.

BARMORE.-At Woodside, L. I., WARD H. BARMORE,

Barmone.—At Woodside, L. I., Ward H. Barmone, in the dist year of his age.

The friends of the family are invited to attend the funeral, on Sunday, the 5th, at half-pest two o'clock, from his late residence, Woodside. Train leaves Hunter's Point at 1:30. Carriages meet train to convey friends to the house.

BEALL.—On Saturday, 4th inst., Addison Cech., youngest son of James A. and Ada S. Beall, aged 5 months and 20 days.

Funeral services at one o'clock P. M., on Monday next, at his father's residence, 228 Madison av. Friends are requested not to send flowers.

BLOOMER.—Suddenly, on the 1st first., James BLOOMER, aged 55 years.

Funeral services at the Central Presbyterian Church, 57th st., between Broadway and 7th av., this city, Sunday, half-past twolve P. M. Relatives and friends are respectfully invited to attend.

BRAINARD.—Thursday, January 2, ROWNELL C. BRAINARD,—Thursday, January 2, ROWNELL C. BRAINARD, in the Only year of his age.

Relatives and friends of the family are invited to attend the Timeral services, at Christ Church, on Bedford av., near Morton st. Brooklyn, E. D., this day (Sunday), January 5, at half-past one o'clock P. M.

Brown.—On Wednesday, January 1, 1879, Andersy T. Brown, aged 46 years.

day (Sunday), January 3, at Batt-past one o closes P. M.

Brows.—On Wednesdey, January 1, 1879, Andrew T. Brown, aged 46 years.

Relatives and friends of the family are invited to attend the funeral, at his late residence, 387 Graham av., Brooklyn, on Sunday, January 5, at twelve M. Members of Chancelior Walworth Lodge, 271 F. and A. M.: Sawanhaka Lodge, 678, F. and a. M.: Triune Chapter, No. 241, R. A. M., and Columbian Commandery, No. 1, K. T., are respectfully invited to actual.

TRIUNE CHAPTER, No. 241, R. A. M.—The con-

Theore Chapter, No. 241, R. A. M.—The companions of this chapter are stummoned to meet at the Masomic Hall, on Sunday, January 5, at heli-past eleven o'clock A. M., for the purpose of uniting with chancellor Walworth Lodge, No. 271, in attending the funeral of Companion Amerew T. Brown.

E. M. L. EHLERS, High Priest.

FREDERICK W. HERMING, Socretary.

CHANCELLOR WALWOITH LODGE, 271, F. AND A. M.—BRETHERS—YOU are hereby summoned to attend an emergent communication on Sinday, January 5, at 14. A. M. Livingston room, Masonic Temple, for the purpose of attending the funeral of our late brother, Andrew T. Brown. Members of sister lodges are fraternally invited to Join with us.

WILLIAM D. MAY, Master.

6, at two P. M., from the residence of his parents, 343

East 23d at.
Boston (Mass.) papers please copy.
Cassiny.—January 3, 1879. Mrs. H. Cassiny, daughter of Jeremiah and Catherine O'Shaughnessey, native of the parish of Killereran, county Galway, Ireland.
Relatives and friends are invited to attend the funeral, at her late residence, 22 Suffoik st., on Sunday afternoon at two P. M.
COTON.—On January 3, after a short illness, of scarlet fever, Louis Cotton, aged 21 years, 1 month and 6 days.
Relatives and friends are invited to attend the funeral services, at the residence of his parents, 116 Suydam at, Brooklyn, E. D., to-day (Sunday), at two P. M.
CERRIGHTON,—On Thursday, January 2, 1879, Ars.

Snydam st., Brooklyn, E. D., to-day (Sunday), at two P. M.
Chergheron.—On Thursday, January 2, 1879, ARS, widow of Hugh Creighton, in her 75th year.
Relatives and friends are respectfully invited to attend the funeral, from her late residence, 151 Waverley place, this day (Sunday), January 5, twelve M.
Evans, aged 59 years and 12 days.
The relatives and friends of the family are respectfully invited to attend the funeral, from his late residence, 416 West 16th st., on Sunday, January 5, at twelve M.
FARRELL.—In Brooklyn, on Friday, January 3, ELIZABETH, sister of Daniel Farrell.
Her remains will be taken on Sunday, at eleven o'clock, to St. John's Church, 21st st., near 5th av., where a requiem mass will be celebrated for the repose of her soul. Relatives and friends are respectfully invited to attend, without further notice.
FREEMAN.—At Mount Hope, Tremont, N. Y., January 2, Henry A. Henry A. Hereman, in his 61st year.
Relatives and friends and the members of Variek Lodge, No. 31, F. and A. M., of Jersey City, are invited to attend the funeral, on Sunday, 5th inst., at two P. M., from the Mount Hope Eaptist Church.
FINNELLY.—On Saturday, January 4, Hannan Firstelly.
Relatives and friends are invited to attend her funday.

when P. M., from the Mount Hope Baptist Church.

Finnelly.—On Saturday, January 4, Hannah Finnelly.

Relatives and friends are invited to attend her funeral, from her late residence, 127 Mulberry st.

Ghuffiths.—Kirmall, Post, 100.—Comrades of this post will assemble at 335% 8th st., Jersey City, to-day (5th), at half-past twelve o'clock, to attend the funeral of our late comrade, William Griffiths.

JOHN K. PERLEY, Commander.

Hamilton.—On Thursday, January 2, Catherine.

J. Hamilton.—On Thursday, January 2, Catherine.

J. Hamilton.—On Thursday, January 2, Catherine.

J. Hamilton.—On Thursday, January 2, Catherine.

Relatives and friends are invited to attend her funeral, from her late residence, 145 West 39th st., and from there to the Church of the Holy Innocents, West 37th st., where a solemn mass of requiem will be offered for the repose of her soul at half-past ten o'clock, thence to Calvary Cemetery.

Hill.—On January 2, in St. Mary's Hospital, Hoboken, N. J., Francis Roch Hill, aged 55 years.

His friends are invited to attend the funeral, at three P. M. on Sunday, at the Church of Our Lady of Grace, Hoboken.

HAYES.—On Thursday, January 2, 1879, our dearly beloved mother, Ellin Hayes, also mother of Bella Hayes, deceased, in the 61st year of her age.

Funeral from her late residence, No. 44 Renwick st., this (Sunday) afternoon, at half-past twelvo o'clock sharp, and from St. Anthony's Church, Sullivan st., at one o'clock.

JOSEPH.—At Louisville, Ky., January 1, 1879, Rosa JOSEPH.—At Louisville, Hy., January 1, 1879, Rosa JOSEPH.—At Louisville, Ky., January 7, 1889, P. Henry and John T. Breen, are respectively in vived to attend.

Kirkans.—On Saturday morning, January 4, at his residence, No. 236 Garden at, Hoboken, of pneumonia, Lawes 4, Errens v. accol 49 verse.

to attend.

Kirenan.—On Saturday morning, January 4, at his restience, No. 226 Gerden st., Hoboken, of pneumonia, Januar A. Kirenan, aged 42 years.

Funeral Tuesday, 7th inst., at ten A. M., from the above residence, to the Church of Our Lady of Mercy, corner 4th and Willow sts., where a solemn requiem mass will be offered for the repose of his soul; thence to Calvary Cemetery. Relatives and friends are requested to attend.

Kirny.—On Sunday, December 29, of scarlet fever, James, son of Ellen and the late James Kirby, aged 8 years.

ARBY.—On Sunday, December 29, or scarlet lover, JAMES, son of Ellen and the late James Kirby, aged 8 years.

Interred in Calvary Cemetery, December 31.

LANGHAR.—Suddenly, Friday morning, January 3, Johns Langhara, in the 64th year of his age.

Relatives and friends are respectfully invited to attend the funeral, from his late residence, 363 Degraw 8t., Brooklyn, on Sunday, the 5th inst., at two P. M.

LOERHMANN.—On Saturday. January 4, Sarah Doborther, infant daughter of Frederick W, and Sarah Loehmann, aged 3 months, 26 days.

The relatives and friends of the family are respectfully invited to attend her funeral, from the residence of her parents, 169 West 21st st., corner of 7th av., on this Sunday, 5th inst., at one P. M.

LUQUEER.—On Saturday evening, December 4, Mars E. Oar, wife of Robert S. Luqueer, Jr., and daughter of David Orr, Esq., formerly of Albany.

Notice of funeral hereafter.

Mansh.—On Friday, January 3, 1879, Ars M., widow of the late Rev. L. G. Marsh.

Services at the residence of her son, 427 Monroe st., Brookiyn, on Sunday, January 5, at half-past two P. M.

Misshoh.—On Friday, January 3, after a short and severs illness. Surphy, wife of John Messloh, aged 65

P. M.

Missloh.—On Friday, January 3, after a short and severe illness, Sophia, wife of John Messloh, aged 65 years, 11 months and 16 days.

The relatives and friends of the family, as also the members of St. Mark's Ladies Association, are respectfully invited to attend the funeral, from St. Mark's Lutheran Church, 6th st., between 1st and 2d avs., on Monday, the 6th inst., at twelve o'clock near.

2d avs., on Monday, the 6th inst., at twelve o'clock noon.

McCLYMONT.—On Thursday, January 2, James Mc-CLYMONT, aged 78 years.

Relatives and friends of the family are invited to attend the funeral services, from his late residence, 521 West 50th st., this day (Sunday), January 5, at one o'clock P. M.

McCooff,—Suddenly, on Friday, January 3, 1879, McCtael McCooff, a native of the township of Drumlougher, county Armagh, Irelaud, in the 42d year of his age.

The friends of the family, also those of his brothers Arthur and Owen, are respectfully invited to attend his funeral, from his late residence, 217 av. B, on Sunday, January 5, at one o'clock, thence to Calvary Cometery.

his funeral, from his late residence, 217 av. B. on Sunday, January 5, at one o'clock, thence to Calvary Cemetery.

McNally.—Saturday, January 4, William McNally, youngest son of Jane and the late James McNally, in the 27th year of his age.

Relatives and friends of the family are requested to attend his funeral, from the residence of his mother, 437 East 16th st., on Monday, January 6, at one o'clock sharp: from thence to church of Immaculate Conception, East 14th st., where a burial service will be held; from thence to Calvary Cemetery.

NEWBOUGH.—January 2, 1879, CECHIA, daughter of Goodman and Louisa Newbouer, aged 7 years.

Echatives and friends are invited to attend the funeral, on Sunday, January 5, at half-past nine o'clock, at 102 East 60th st.

O'NKIL.—On Friday, January 3, Jessie R., in the 18th year of her age, daughter of the late James H.

O'Nkill.

Funeral on Sunday, January 5, from the residence

O'Neill.

Funeral on Sunday, January 5, from the residence of her motier, Mrs. C. A. Field, No. 142 East 57th st., at one P. M.

PRUTTIE.—January 4, at her late residence, 53 Atlantic av., Brooklyn, Mrs. Manx PRIETE, wife of John Perette. Born in Bristol, county Kerry, Ireland: maiden name, Mary Trant.

Relatives and friends are invited to attend the funeral, on Monday, January 6, at half-past two o'ciock.

Taineral, on Monday, January e, at hat-pase two o'cicek.

Enuandson.—At New Rochelle, on Saturday, January t, Caroline A., wife of Edward B. Richardson, in the 79th year of her age.

The friends of the family are invited to attend the funeral, on Tuesday, January 7, at two P. M., from the residence of Mrs. J. A. Sezoord, New Rochelle. Train leaves Grand Central Depot at 12 M.

Richards.—On January 4, Henry H. Richards, aged 39 years.

Relatives and friends are respectfully invited to attend the funeral, from his late residence, 73 Market st., on Monday, January 6, at half-past one o'clock P. M.

Ronson.—At his late residence, 51 Myrtle av., after

tend the funeral, from his late residence, 73 Market st., on Monday, January 6, at half-past one o'clock P. M.

Ronson.—At his late residence, 51 Myrtle av., after a prolonged illness, J. S. Ronson, jeweller.

Notice of funeral hereafter.
Rockwell.—At Brookiyn, N. Y., Friday, January 3, 1879, of scarlet fever and diphtheria, James S. Rockwell., aged 61 years.

Funeral services (private) from his late residence, No. 4 Montague terrace, on Monday, 6th inst., at ten o'clock P. M.

ROSENTHAL.—On Saturday evening, January 4, Fanny Rosenthal.

Notice of funeral hereafter.
Scallos.—On Saturday, January 4, James J., son of J. J. and Mary Scallon, aged 1 month and 16 days.

Rolatives and friends are invited to attend the funeral, from his parents' residence, 230 East SM st., on Monday, January 6, at one o'clock.

Schimfer.—On Saturday, January 4, William Schimfer.—On Saturday, January 4, 1879, Henry W. L., son of J. L. Siebein, aged 28 years and Imonths.

Residives and friends of the family are respectfully invited to attend the funeral, which will take place from his late residence, No. 24 Vandam st., on Tuesday, January 7, at eleven A. M.

Stringer.—On Saturday, January 4, 1879, Henry W. L., son of J. L. Siebein, aged 28 years and Imonths.

Residives and friends of the family are respectfully

months.

Besatives and friends of the family are respectfully invited to attend the functal, at the residence of his parents, 186 Hudson st., Hoboken, on Monday morning, at half-past ten.

SERVENS.—Oh Thursday morning, January 2, Fansces Ann Strevens, aged 41 years, 5 months and 14

STEVENS.—On Thursday morning, January 2, Frances Ann Stevens, aged 41 years, 5 months and 14 days.

Funeral services at her late residence, 222 East 11th st., this (Sunday) afternoon, at one o'clock. Relatives and friends are invited.

Stoddart.—On the 4th inst., Margaret A., wife of William Stoddart, aged 61 years.

The relatives and friends of the family are respectfully invited to attend the funeral, from her late residence, No. 319 West 35th st., on Tuesday, at ion o'clock A. M.

Swarts.—On Saturdsy morning, 4th inst., after a linguring and painful illness, Annix, beloved wife of Frederick Swarts, in the 38th year of her age.

Fineral from her late residence, 861 Sackett st., Brooklyn, on Monday, 6th inst., at noon.

Williams.—Suddenly, of paralysis of the heart, Thursday, January 2, William Williams, of Cardiff, South Wales, aged 71 years.

Relatives and friends of the family are respectfully invited to attend his funeral, at the residence of his son-in-law, William H. Walton, 398 Vanderbilt av., between Greene and Fulton avs., Brooklyn, on Sunday, January 3, 1879. Thomas W. Williams.

Funeral at the residence of his nephew. Joseph W. Valentine, Leonat Valley, Ja. &, January 7, at halfpast twelve. Train leaves Hunter's Point 19 A. M.

Wyckory.—On Thursday, January 2, in the 14th year of her age. Alice Pawling, daughter of Peter and Julia A. Wyckoff.

Relatives and friends of the family are respectfully invited to attend the inneral, on Monday, January 6, at one o'clock, from 126 Amity st., Brooklyn.